

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CAROLYN MILLENDER

Plaintiff,

VS.

H. COUNCILL TRENHOLM STATE  
TECHNICAL COLLEGE and ANTHONY  
MOLINA, in his official capacity as  
President of H. Councill Trenholm State  
College

Defendants.

CASE NO.: 2:07-cv145-MHT

DEFENDANT'S MOTION FOR ORDER GRANTING IN WHOLE OR IN  
PART THE JOINT MOTION FOR LIMITED AMENDMENT OF  
SCHEDULING ORDER  
OR IN THE ALTERNATIVE, DEFENDANT'S MOTION TO EXTEND  
THE DISPOSTIVE MOTION DEADLINE UNTIL DECEMBER 14, 2007  
AND/OR  
FOR CLARIFICATION WHEN MOTION IS DUE

Comes now the Defendant in the above style case and moves this Court to grant in whole or in part the Joint Motion for a Limited Amendment to the Scheduling Order or in the alternative Motion to Extend the Dispositive Motion Deadline until Monday, December 14, 2007. As grounds for this motion, the Defendant shows as follows:

1. To date, the Defendant has not received important deposition transcripts of three (3) depositions taken the week of November 5, 2007. One comparator who is no longer

employed with Trenholm was deposed on Wednesday, November 7, 2007, and another comparator, in addition to a significant witness listed on the Plaintiff's initial disclosures, was deposed on Friday, November 16, 2007. These deposition transcripts will most likely total several hundred pages and are necessary to properly prepare the Motion for Summary Judgment.

2. In addition, a critical deposition to the case, namely Plaintiff's immediate supervisor, Wilford Holt's, deposition, who will also be acting as Trenholm's 30(b)(6) representative, has also not yet been taken through no fault of Mr. Holt, and will be scheduled to follow the Thanksgiving Holiday. This deposition will most likely be lengthy and very costly, particularly if an immediate turnaround is required.
3. Moreover, at least three (3) other critical depositions are going to be scheduled after the Thanksgiving Holidays, including Joan Davis', who is General Counsel and Vice Chancellor for Post Secondary, deposition is set for December 5, 2007, and the expert's deposition will be set around this same time also.
4. There are numerous issues in this complex case, involving, among other things, five (5) alleged male comparators and as a result, significant document production and other discovery

is still ongoing. More than 6,000 documents have been exchanged thus far and nine (9) depositions taken in this case.

5. That an extension of the dispositive motion deadline until December 14, 2007, will not prejudice the other remaining deadlines in this case.
6. That a limited amendment of the scheduling order as jointly requested would allow the parties the necessary time to engage in possible productive mediation without further incurring additional significant costs that may impact negatively impact on the same.
- 7 Finally, if an extension is denied, Defendant seeks clarification from the Court regarding whether the deadline for filing the dispositive motion in this case is Friday, November 23, 2007, or Monday, November 26, 2007. In particular, the Scheduling Order designates Thursday, November 22, 2007, as the dispositive motion deadline. However, that is a legal holiday, namely Thanksgiving Day. The following day, Friday, November 23, the federal courthouse is closed according to District Court Clerk's Office and state offices are closed also. Friday, November 23 does not however appear to be a legal holiday as defined by Rule 6. On the other hand the clerk's office is closed and will thus be inaccessible except by way of e-filing.

WHEREFORE, the Defendant respectfully requests that this Honorable Court grant in whole or in part the Joint Motion for Limited Amendment of Scheduling Order or in the alternative Defendant's Motion to Extend the Dispositive Motion Deadline until December 14, 2007. If said requests for extension are denied, the Defendant seeks clarification regarding whether the deadline for filing the dispositive motion is Friday, November 23, or Monday, November 26, 2007.

Respectfully submitted this 16<sup>th</sup> day of November, 2007.

/s/ MARY GOLDTHWAITE  
Mary Goldthwaite  
Assistant Attorney General  
Counsel for Defendant

OF COUNSEL:

OFFICE OF THE ATT. GENERAL  
11 South Union Street  
Montgomery, AL 36130  
(334) 353-9189  
(34) 242-2433 (fax)

CERTIFICATE OF SERVICE

I hereby certify that I have, on this 29th day of October , 2007, electronically filed the foregoing with the Clerk of the Court, using the CM/ECF filing system, and that I have further served a copy of the foregoing upon the foregoing, by placing same in the United States Mail, postage prepaid and properly addressed as follows:

William F. Patty, Esq.  
William R. Gordon, Jr., Esq.  
BEERS, ANDERSON, JACKSON  
PATTY, VAN HEEST & FAWAL, PC  
250 Commerce Street, Suite 100  
Montgomery, AL 36104

Candis A. McGowan, Esq.  
WIGGINS, CHILDS, QUINN & PANTAZIS, LLC  
The Kress Building  
301 19<sup>th</sup> Street North  
Birmingham, AL 35203

/s/ MARY GOLDTHWAITE  
OF COUNSEL